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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/711,719

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Anatoliy Panasyuk

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CHOATE, HALL & STEWART / CITRIX SYSTEMS, INC.  
TWO INTERNATIONAL PLACE  
BOSTON, MA 02110

EXAMINER

CHANG, JUNGWON

ART UNIT

PAPER NUMBER

2454

MAIL DATE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/711,719	<b>Applicant(s)</b> PANASYUK ET AL.	
	<b>Examiner</b> JUNGWON CHANG	<b>Art Unit</b> 2454	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 2/10/10.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This Action is in response to RCE filed on 2/10/10. Claims 1-35 are presented for examination.
2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/10/10 has been entered.
3. In remarks, applicant states that "examiner hold the double patenting rejection in abeyance until allowable subject matter is found in one of either the '646 application or the present application." A terminal disclaimer has not been filed; therefore, the double patenting rejection is maintained.

### ***Double Patenting***

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140

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F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1-35 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-35 of copending Application No. 10/711,646 (hereinafter 646). Although the conflicting claims are not identical, they are not patentably distinct from each other because both methods of present application and the 646 application comprise substantially the same elements. The difference between the 646 application and the present application is the claimed "first ticket and second ticket" in the present application, and "ticket" in the 646 application. The claimed "first ticket" is used to represent either first connection or second connection, and the "second ticket" is used to represent either first connection or second connection. Each communication connection is assigned its own ticket (i.e., session ID, key) is well known in the art. Although the 646 application recites only one ticket for communication connections, the ticket can inherently comprise the first ticket and second ticket. Therefore, they are not patentably distinct from each other.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-10, 12-28 and 30-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Block et al, (US 7,401,114), hereinafter Block.

8. As to claims 1 and 18, Block discloses the invention as claimed, including a method for re-connecting a client to a host service (col. 2, lines 54-65, “reestablishing”), the method comprising:

providing a communication session between a client (502, fig. 5) and a host service (508, fig. 5) via a first connection (fig. 5) between the client and a first protocol service (506, fig. 5), and a second connection (fig. 5) between the first protocol service (506, fig. 5) and the host service (508, fig. 5);

detecting a disruption in one of the first connection and the second connection (col. 3, lines 4-32, “failure is detected”; col. 4, lines 41-62, “session hosting server fails...alternate session hosting server”);

obtaining, at the first protocol service, a first ticket and a second ticket (fig. 9B; col. 7, line 32—col. 8, line 10, “a token is associated with the user session”);

maintaining the other of one of the first connection and the second connection responsive to validating the second ticket (figs. 5, 9C; col. 4, lines 41-62; col. 8, line 32 – col. 9, line 10; col. 9, line 48 – col. 10, line 39; user's connection is maintained while a server of a plurality of servers fails its connection);

validating the first ticket to re-establish the disrupted connection (figs. 5, 9C; col. 8, line 32 – col. 9, line 10; col. 13, lines 42-64); and

linking the re-established connection to the maintained connection (fig. 9C; col. 4, lines 41-62, "the user is allowed to invoke multiple sessions on different servers"; col. 8, line 32 – col. 9, line 10; col. 13, lines 42-64, "reconnection to the new server").

9. As to claims 2 and 20, Block discloses, further comprising maintaining the communication session during the disruption in the disrupted connection (figs. 5, 9C; col. 4, lines 41-62; col. 8, line 32 – col. 9, line 10; col. 9, line 48 – col. 10, line 39; user's connection is maintained while a server of a plurality of servers fails its connection).

10. As to claims 3, 19 and 21, they are rejected for the same reasons set forth in claims 1 and 18 above.

11. As to claims 4 and 22, Block discloses, further comprising validating, by the ticket authority, at least one of the first ticket and the second ticket (figs. 5, 9C; col. 8, line 32 – col. 9, line 10; col. 10, lines 7-39; col. 13, lines 42-64).

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12. As to claims 5 and 23, Block discloses, further comprising authenticating the client to a web server (504, fig. 5).

13. As to claims 6 and 24, Block discloses, further comprising transmitting, by a web server, the first ticket to the client (col. 8, line 32 – col. 9, line 10; col. 9, line 48 – col. 10, line 39).

14. As to claims 7 and 25, Block discloses, further comprising transmitting, by the client, the first ticket to the first protocol service (col. 8, line 32 – col. 9, line 10; col. 9, line 48 – col. 10, line 39).

15. As to claims 8 and 26, Block discloses, further comprising authenticating, by the host service, the client upon establishment of the communication session (504, fig. 5; col. 8, line 32 – col. 9, line 10; col. 9, line 48 – col. 10, line 39).

16. As to claims 9-10 and 27-28, Block discloses wherein the first protocol service comprises a proxy server, a security gateway (col. 7, lines 25-42, “middleware”).

17. As to claims 12 and 30, they are rejected for the same reasons set forth in claims 1 and 18 above.

18. As to claims 13 and 31, they are rejected for the same reasons set forth in claims

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1 and 18 above.

19. As to claims 14 and 32, they are rejected for the same reasons set forth in claims 1 and 18 above. In addition, Block discloses, wherein the re-established connection is linked to the maintained connection after the ticket is validated (fig. 9C; col. 4, lines 41-62, "the user is allowed to invoke multiple sessions on different servers"; col. 8, line 32 – col. 9, line 10; col. 13, lines 42-64, "reconnection to the new server").

20. As to claims 15 and 33, Block discloses wherein one of the first connection and the second connection comprises a plurality of connections connected via one of an intermediary node and one or more first protocol services (fig. 5).

21. As to claims 16 and 34, they are rejected for the same reasons set forth in claims 1 and 18 above. In addition, Block discloses, wherein a ticket is generated for at least one of the plurality of connections (figs. 5, 9C; col. 4, lines 41-62; col. 8, line 32 – col. 9, line 10; col. 9, line 48 – col. 10, line 39).

22. As to claims 17 and 35, they are rejected for the same reasons set forth in claims 1 and 18 above. In addition, Block discloses, wherein the ticket is valid for the least one of the plurality of connections (figs. 5, 9C; col. 4, lines 41-62; col. 8, line 32 – col. 9, line 10; col. 9, line 48 – col. 10, line 39).



***Claim Rejections - 35 USC § 103***

23. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

24. Claims 11 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Devine, in view of Bavadekar (US 2003/0009571).

25. As to claims 11 and 29, Block does not specifically disclose client and the first protocol service communicate using a first protocol encapsulating a second protocol, and the first protocol service and the host service communicate using the second protocol. Bavadekar discloses client and the first protocol service communicate using a first protocol encapsulating a second protocol, and the first protocol service and the host service communicate using the second protocol (fig. 5A; page 2, 0036, 0041; page 3, 0047; page 7, 0086). It would have been obvious to one of ordinary skill in the art at time of the invention was made to combine the teachings of Block and Bavadekar because Bavadekar's teaching would provide tunneling to ensure that the communication is secure (Bavadekar, page 2, 0036, 0041).

26. Applicant's arguments with respect to claims 1-35 have been considered but are moot in view of the new ground(s) of rejection.

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27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Akahane et al, US 7,054,319, Borella et al, US 6,732,314, Ellington, Jr. et al, US 6,708,218, Heller, US 2002/0101857, McCullough et al, US 2002/0010866, Andersson et al, US 6,535,481, Narvaez-Guarnieri et al, US 6,721,899 disclose method and system for a computer network processing data packets in the event of a network link failure.

28. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JUNGWON CHANG whose telephone number is (571)272-3960. The examiner can normally be reached on M-F 6:30 - 2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on 571-272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information

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system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JUNGWON CHANG/

Primary Examiner, Art Unit 2454

April 9, 2010